



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

*Handwritten mark*

JSR  
Docket No: 6632-08  
28 August 2008

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested removal of your relief for cause (RFC) from Marine Security Guard duty effected on 3 April 2007 and approved on 10 April 2007.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 August 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion from Headquarters Marine Corps dated 31 July 2008 with enclosure, a copy of which is attached, and your letter dated 25 August 2008.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

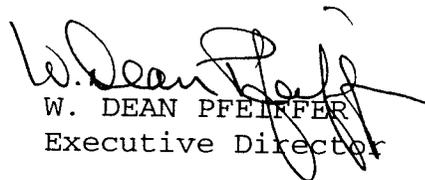
The Board was unable to find the contested RFC was in reprisal for your protected communication of 8 March 2007 with your Congressman concerning your nonjudicial punishment (NJP) of 6 March 2007; nor could it find your first sergeant told you that

if you did not appeal the NJP, which you did not appeal, you would receive no RFC. Finally, the Board found you had no right under Battalion Order 1300.2G to notice or an opportunity to make a statement to the contested RFC before it was effected, nor did you have a right to make a statement before the RFC was filed in your record, as you had a right to make a statement in connection with the NJP proceedings on which it was based; and you do not dispute the NJP.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

  
W. DEAN PFEIFFER  
Executive Director

Enclosure